

ARTICLE II (2015 Draft Revision #4 – October 28, 2015)

Definitions

§ 205-4. Terms defined.

For the purposes of this chapter, the following words and phrases shall have the meanings or limitations of meanings herein defined. All present tenses shall include past and future tenses and all past tense the present. All singular terms shall include the plural and the plural the singular.

ACCESSORY

- A. ACCESSORY BUILDING — A building devoted exclusively to a use accessory to the principal use of the lot on which it is located.
- B. ACCESSORY USE — A use incident and subordinate to and on the same lot as a principal use.

ADULT BOOKSTORE — An establishment having a substantial or significant portion of its stock-in-trade printed matter, books, magazines, picture periodicals, motion-picture films, video cassettes, or coin-operated motion-picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual conduct as that term is defined in MGL c. 272, § 31; or an establishment having for sale sexual devices, which shall mean any device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, or an establishment with a segment or section devoted to the sale or display of such materials.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS (CABARET) — Establishments which feature live entertainment which consists of entertainers engaging in sexual conduct or nudity, or topless and/or bottomless wait persons or employees or any other form of nude or partially nude service or entertainment as defined in MGL c. 272, § 31.

ADULT MINI-MOTION-PICTURE THEATER — An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to sexual conduct as defined in MGL c. 272, § 31, for observation by patrons therein.

ADULT MOTION-PICTURE THEATER — An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct as defined in MGL c. 272, § 31, for observation by patrons therein.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT RETAIL USE — An establishment having 35% or more of its stock-in-trade devoted to books, magazines, publications, tapes, films and/or other items that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

ADULT VIDEO STORE — An establishment having a substantial or significant portion of its stock-in-trade, videos, movies or other film, material which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined by MGL c.272, § 31.

APARTMENT

- A. UNIT — Any room or suite of rooms forming a habitable unit for one family with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping and eating areas wholly within such room or suite of rooms.
- B. APARTMENT BUILDING — A building containing four or more apartment units, with no portion of the building below the first story or above the second story used for dwelling purposes.
- C. TOWNHOUSE APARTMENT — A group of attached one-family dwellings.

ARTISANAL MANUFACTURING - A workshop for the production, in whole or in part, of custom-made goods by a skilled craft-worker or artisan which are to be sold on site.

ASSISTED LIVING HOUSING: Housing units and associated facilities designed for the elderly who require daily assistance but who do not require nursing home care. An Assisted Living Housing Unit consists of the same characteristics as a Congregate Living Housing Unit. Associated facilities typically provide additional services beyond Congregate Housing, including daily meals and personal services, medical monitoring and supervision. Assisted Living shall refer to certified Assisted Living Residences only, as regulated under EOEA 651 CMR 12.02.

BIOTECHNOLOGY - Any technology that uses living organisms or parts of organisms to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses as defined by the US Office of Technology Assessment.

BUILD — Includes the words "erect," "construct," "alter," "enlarge," "move," "modify," "excavate," "fill" and any others of like significance.

BUILDABLE LOT - With the exception of the C-III district, each lot shall have at least half of its minimum lot size required by zoning consists of contiguous upland. The upland area shall be exclusive of any resource area as defined by Massachusetts Wetland Protection Act Regulations 310 CMR 10.00 or Chapter 202 of the Westminister General Bylaws.

BUILDING — Includes the word "structure," unless the context unequivocally indicates otherwise. "Building" shall also mean any three-dimensional enclosure by any building materials of any space for use or occupancy, temporary or permanent, and shall include foundations in the ground; also, all parts of any kind of structure above the ground, except fences and field or garden walls or embankment retaining walls.

BUILDING SUPPLY STORE - A retail store where building materials such as lumber, bricks, plywood, dry-wall, paneling, cement blocks and other cement products, and other building supplies are stored and sold. Such merchandise may be stored in the open, provided that all merchandise so stored is screened from ground level view from any abutting street or abutting property at the property line where such materials are stored.

BUSINESS OFFICES - Establishments primarily engaged in the rendering of services to other businesses, such as photo-copying, printing, blueprinting shops, advertising firms, mail and packaging services, data processing and office support services, janitorial and building maintenance, employment agencies, protective services, office equipment repair and leasing, and other similar services.

BUSINESS SERVICES - Establishments primarily engaged in rendering services to other businesses, such as photo copying, printing, and blueprinting shops, advertising firms, mail and packaging services, data processing and office support services, janitorial and building maintenance, employment agencies, protective services, office equipment repair and leasing, and other similar services.

COMMERCIAL BOARDING OR TRAINING KENNEL - An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment at which such services are rendered in exchange for consideration and in the absence of the owner of any animal; provided, however, that “commercial boarding or training kennel” shall not include an animal shelter or animal control facility, a pet shop licensed under MGL Chapter 129, Section 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

COMMERCIAL BREEDER KENNEL - An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

CONGREGATE LIVING HOUSING: As defined by the MA Office of Elderly Affairs, congregate housing is a shared living environment designed to integrate the housing and services needs of elders and younger disabled individuals. The goal of Congregate Housing is to increase self-sufficiency through the provision of supportive services in a residential setting. Congregate Housing is neither a nursing home nor a medical care facility. It does not offer 24-hour care and supervision. Services are made available to aid residents in managing Activities of Daily Living in a supportive, but not custodial environment. Each resident has a private bedroom, but shares one or more of the following: kitchen facilities, dining facilities, and/or bathing facilities.

DAY CARE CENTER - Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents-

DOMESTIC CHARITABLE CORPORATION KENNEL: A facility operated, owned or maintained by a domestic charitable corporation registered with the Department of Agricultural Resources or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

DWELLING

- A. **DWELLING, ATTACHED** — A building designed for or occupied as a one-family residence and separated from another attached dwelling on one or both sides by a vertical party wall.
- B. **DWELLING, DETACHED** — A building designed for or occupied as a one-family residence and separated from any other building except accessory buildings by side yards.
- C. **UNIT** — Same as "apartment unit."
- D. **ONE-FAMILY DWELLING** — A building designed for or occupied by one family.
- E. **TWO-FAMILY DWELLING** — A freestanding building, designed or intended exclusively for residential use containing two dwelling units. (This can be two attached dwelling units.)
- F. **EXISTING DWELLING** — A dwelling existing at the time of adoption of this chapter.

ENTERTAINMENT AND RECREATIONAL FACILITIES - Buildings used for public recreation including but not limited to bowling alley, gyms, dance and yoga studios, skating rink, theater or sport arena or concert hall, provided that such use is housed indoors in sound-insulated structures.

FAMILY — Any number of individuals, including domestic employees, living together in a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a "family."

FAMILY CHILD CARE HOME - A private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age. The total number of children under 16 in a family child care home shall not exceed 6, including participating children living in the residence. Family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation as defined and regulated under MGL Chapter 15D, Section 1A, provided that any outdoor play area is screened by fence, wall or planting line from any neighboring residential structure.

FARMS: agriculture, orchard, horticulture, or silviculture, whether or not the farm is exempted under MGL Chapter 40A, §3, provided that any building housing farm animals be not less than 50 feet from the property boundary, unless the building was in existence at the time of adoption of this chapter.

FINANCIAL OFFICES - A bank, savings and loan, credit union, mortgage office, lending institution, investment-company, with or without drive-thru services and/or automated teller machine.

FRONTAGE - The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access and to which the owner could provide for vehicular access from a principal building or a required parking space. Frontage may be measured at the front yard setback line if the street is an arc of a curve with a radius of three hundred (300) feet or less, provided that there is, in any event, not less than a fifty-foot width of such frontage at the street.

HEIGHT OF BUILDING — Measured as the vertical distance between the highest point of the roof and the mean finished grade of the ground adjoining the building.

HOME OCCUPATION — An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary home equipment. "Home occupations" do not include barbershops, beauty shops, commercial offices such as real estate or insurance, nor do they involve the sale of articles produced outside the dwelling unit nor the raising or production of products involving odor, vibration, smoke, dust, heat or other objectionable effects.

HOTEL and MOTEL — A structure containing sleeping rooms with or without a common eating facility, each room having its own private toilet facilities and each room let for compensation.

INDEPENDENT LIVING HOUSING - Housing units and associated facilities designed for the elderly who are self-sufficient and require no on-site personal or health care services. An Independent Living Housing unit consists of a room or group of rooms designed or intended to provide a habitable unit for one or more persons with provisions for cooking, living, sanitation and sleeping for the exclusive use of the household unit. Associated facilities may include substantial common and socializing areas and other amenities as regulated under HHS 107 CMR 10:00.

KENNEL - A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

LARGE FAMILY CHILD CARE HOME - A private residence which, on a regular basis, receives for temporary custody and care during part, or all of the day, children under 7 years of age, or children under 16 years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours children of school age, but the number of children under the age of 16 in a large family child care home shall not exceed 10, including participating children living in the residence. A large family child care home shall have at least 1 approved assistant when the total number of children participating in child care exceeds 6. Large family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation as defined and regulated under MGL Chapter 15D, Section 1A, provided that any outdoor play area is screened by fence, wall or planting line from any neighboring residential structure.

LIFE SCIENCES - Advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science. (M.G.L, Chapter 130 of the Acts of 2008). Facilities that utilize animal testing of products are not included in this definition.

LIGHT MANUFACTURING - Place of manufacturing, assembly or packaging of goods, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor are effectively confined to the premises or are disposed of in a manner that does not create a nuisance or hazard to safety or health.

LIVESTOCK FARMS - Livestock or poultry but not swine, provided that any building housing livestock or poultry be not less than 50 feet from the property boundary unless the building was in existence at the time of adoption of this chapter.

LOADING AREA - An off-street area for the loading and unloading of goods and materials from a vehicle.

LOT — The whole area of a single parcel of land undivided by a street under one ownership, with ascertainable boundaries established by deed or deeds of record or a segment of land ownership defined by lot boundary lines on a land division plan duly approved by the Planning Board under the Subdivision Control Statute.

LOT COVERAGE — The amount of area on a lot covered by the horizontal cross section of structures, **exclusive of recreational facilities such as swimming pools, tennis courts, etc. for the use of the residents.**

LOT FRONTAGE — The distance measured along the boundary of a lot coinciding with the street line, being an unbroken distance along a way currently maintained by a town, county, or state, or along ways shown on the definitive plans of approved subdivisions which have been secured or constructed, through which actual access to the potential building site shall be required.

LOT LINE, FRONT — A line dividing a lot from a street. On any lot bounded on more than one side by a street, the street boundary that is to be the lot front shall be so designated in any application for a permit to build on such lot.

LOT LINE, REAR — Except for a triangular lot, the lot line opposite the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT WIDTH — As measured wholly within such lot, the shortest distance between side lot lines at the required front yard depth.

MARINA — A commercial enterprise having an area for the storage, mooring or service of boats, with frontage on a navigable body of water and with facilities for the landing of boats. If storage is to be on land and of a transient nature requiring frequent launchings and landings, it shall be inside a building.

MEDICAL MARIJUANA TREATMENT CENTER/REGISTERED MARIJUANA DISPENSARY - A Registered Marijuana Dispensary (RMD) as defined in the regulations promulgated by the Massachusetts Department of Public Health (DPH), 105 CMR 725.000. Such facilities shall be operated and managed by a not-for-profit entity registered with the state that acquires, cultivates, possesses, processes, transfers, transports, sells, distributes, dispenses or administers medical marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients and/or their personal caregivers.”

MOBILE HOME and/or TRAILER

- A. MOBILE HOME — A transportable, single-family dwelling unit built on a chassis for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing.
- B. TRAILER — The following shall be considered a trailer.
 - (1) TRAVEL TRAILER — A vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation and having body width not exceeding eight feet and a body length not exceeding 32 feet.
 - (2) PICK UP COACH — A structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
 - (3) MOTOR HOME — A portable temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
 - (4) CAMPING TRAILER — A folding structure mounted on wheels and designed for travel, recreation and vacation use.

MOBILE HOME OR TRAILER PARK — A parcel of land which has been planned and improved for the placement of mobile homes or trailers for transient or non-transient use and is designed to accommodate two or more mobile homes or trailers.

NONCONFORMING

- A. LOT — A lot that does not conform to a dimensional regulation prescribed by this chapter for the district in which it is located but was in existence at the time of adoption of this chapter and was lawful at the time it was established and conforms to the requirements of MGL c. 40A.
- B. USE — A use of a building or lot that does not conform to a use regularly permitted by this chapter for the district in which it is located, but was in existence at the time of the adoption of this chapter and was lawful at the time it was established.

OCCUPIED — Includes the words "designed, arranged or intended to be occupied."

PARKING SPACE — An area containing adequate space, as determined by the Planning Board, to be used exclusively as a parking stall for one motor vehicle.

PERSONAL KENNEL - A pack or collection of more than 4 dogs, 3 months or older, owned or kept under single ownership for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.

PERSONAL SERVICES - Businesses where the primary occupation is the repair, care of, maintenance, or customizing of personal properties that are worn or carried about the person or are a physical component of the person. Personal service establishments shall include but not be limited to: barber shops, beauty salons, manicurists, laundry, dry-cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe repair shops, watch repair shops, opticians, tanning salons, and other similar places of businesses, but not including offices for physicians, dentists, and veterinarians.

PRIVATE NONPROFIT SOCIAL CLUB OR LODGE - Buildings and facilities owned by a corporation, association, person or persons for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

PROFESSIONAL OFFICES - An office or offices of recognized professions such as doctors, lawyers, licensed massage/ muscular therapists, engineers, artists, musicians, designers and others who through training are qualified to perform services of a professional nature.

PUBLIC UTILITIES - Investor-owned electric power, natural gas, and water utilities in the Commonwealth.

PUBLIC SERVICE CORPORATIONS – Those corporations located within the Commonwealth of Massachusetts that provide a public service or services, regulated by the MA Department of Public Utilities or the MA Department of Telecommunications and which may be exempted from local zoning after a public hearing held by either department to determine the applicability of MGL Chapter 40A, Section 3 where the Town is notified as an interested party.

RECYCLING FACILITY - The use of land and/or structures for the collection and/or processing of used materials, excluding motor vehicles and excluding bottle and can redemption, whereby the resultant product is to be re-used in the same or different form or matter, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor are effectively confined to the premises or are disposed of in a manner that does not create a nuisance or hazard to safety or health.

RETAIL STORE - A business that sells consumer products directly to consumers and may include, but is not limited to department stores and stores that sell the following: furniture, clothing, hardware, household furnishing, sporting goods, electronics, and appliances,, provided that all storage and sales of materials are conducted within a building and such building is no greater than 25,000 square feet of gross floor area.

SELF-SERVICE STORAGE (MINI-WAREHOUSE) FACILITY — An establishment consisting of a structure or group of structures containing separate storage spaces of varying sizes leased or rented for dead storage as individual leases. Individual storage spaces shall be leased or rented to tenants who are to have access to said space for the purpose of storing or removing personal property. No individual storage space shall exceed 900 square feet of gross floor area. Trucking terminals are specifically excluded from this definition and the intent is to limit the definition to that use set forth in Massachusetts General Laws, Chapter 105A, Self-Storage Facilities.

SHARED PARKING – Parking spaces that may be shared by different uses to be counted towards the parking requirement. Parking spaces to be shared should serve uses that have different hours of operation.

SIGNS — Includes any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation used as or which is in the nature of an advertisement, announcement or direction or is designed to attract the eye by intermittent or rapid motions or illumination.

SPACE, HABITABLE — Those areas within the exterior walls of a dwelling which have headroom of not less than seven feet measured vertically upward from the top of the finished floor, but excluding basement areas and excluding areas in any accessory structure attached to any dwelling.

STORY — That portion of a building contained between any floor and the floor or roof next above it, but not including any portion so contained if more than one-half (1/2) of such portion vertically is below the average natural grade of the ground adjoining such building.

STREET — A public way or private way on record at the Registry of Deeds which affords a principal means of adequate access to abutting property and open to travel by the general public or a way shown on a subdivision plan duly approved by the Planning Board under the Subdivision Control Statute.

STRUCTURE — A combination of material assembled at a fixed location to give support or shelter, such as a building, tower, framework, platform, bin, sign or the like.

TRADE, PROFESSIONAL OR OTHER SCHOOL - A specialized instructional establishment that provides on-site training of business, commercial and/or trade skills (such as accounting, data processing, and computer repair).

UPPER STORY RESIDENTIAL – Dwelling units located above first floor commercial or institutional uses in the Village Center District.

USE — The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

USE, PRINCIPAL — The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it is permitted to be used, occupied or maintained under this chapter.

VETERINARY KENNEL - A veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that “veterinary kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

YARD

- A. **FRONT YARD** — An open space extending the entire width of a lot from lot side line to lot side line between the front lot line or lines and the nearest point of a building.
- B. **REAR YARD** — An open space extending the entire width of a lot line from side line to side line between the rear lot line or the corner of a triangular lot farthest from the front lot line and the nearest point of the building.

- C. **SIDE YARD** — An open space extending along a side line of a lot (between the front yard and the rear yard on such lot) and extending between the side line of such lot to the nearest point of the building.